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February 1, 2005

REMARKS

This amendment is being filed in response to the Office Action mailed October 1, 2004. In that Office Action, claims 1, 7, 10, 11, 17, 19, and 21 were rejected under 35 U.S.C. § 102(e) and claims 1-23 were rejected as on the basis of obviousness-type double patenting in view of claims 1-5 of the parent case, U.S. Patent No. 6,648,031. These rejections are traversed.

As to the double patenting rejection, Applicants are hereby filing a terminal disclaimer and respectfully request that the rejection be withdrawn.

With regard to the rejection of various claims under 35 U.S.C. § 102(e) on the basis of Koch, the Office Action states that the rejection is essentially identical to the rejection upheld by the Board of Appeals in the parent application. Applicants respectfully disagree. The Board upheld several rejections of claims in the parent case, mostly for those claims directed to devices located in the fuel dispensing nozzle itself, but as to claim 1 of the issued patent (claim 23 in the appeal), the Board reversed the rejection and allowed the claim on the basis that "neither Kaplan nor Koch discloses a wireless sound or video system in the flexible boot of a fuel dispensing nozzle." (BPAI Opinion, Page 7, lines 11-18, emphasis added.)

Claim 1 recites a sound system mounted in a boot that fits over a fuel dispensing nozzle. Applicants submit that this claim is patentable over Koch since it recites subject matter specifically determined by the Board not to be taught by that reference. Claims 7 and 10 each ultimately depend from claim 1 and should be allowable therewith.

With regard to rejected claim 11, it has been canceled. The cancellation of claim 11 is without disclaimer of the subject matter therein and without prejudice to Applicants' right to later submit one or more claims covering the subject matter thereof.

Claim 12 was not rejected on prior art and has been rewritten into independent form. Rejected claim 17 has been changed so that it depends from claim 12. Each of the other claims 13-16, and 18-20 now ultimately depend from claim 12 and should also be

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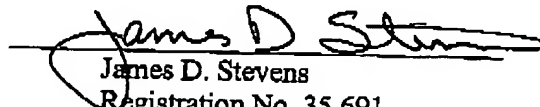
allowable. As to claim 21, it was inadvertently marked originally as depending from claim 7, and this has been corrected so that it now depends from claim 17 and, thus, claim 12.

In view of the foregoing, Applicants respectfully submit that all claims are allowable over the prior art. Reconsideration is therefore requested. The Examiner is invited to telephone the undersigned if doing so would advance prosecution of this case.

The Commissioner is hereby authorized to charge Deposit Account No. 50-0852 for a one-month extension of time and any other required fees, or credit any overpayment associated with this communication.

Respectfully submitted,

REISING, ETHINGTON, BARNES, KISSELLE, P.C.



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Date: February 1, 2005
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